

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Plaintiff,

Case No. 1:17-cv-515

Dlott, J.
Litkovitz, M.J.

vs.

R & L CARRIERS, INC., et al.,
Defendants.

ORDER

This matter is before the Court following an informal discovery conference held on December 10, 2018. For the reasons stated on the record at the conference, the issues raised by the parties are resolved as follows:

Issue 1: Whether defendants have fully responded to plaintiff's Request for Production of Documents No. 17 related to documents defendants may use to support their defenses in this case.

Defendants acknowledged that they have provided to the Equal Employment Opportunity Commission (EEOC) all documents that are responsive to this request, subject to supplementation. In the event defendants have omitted their anti-discrimination policies and procedures from the document production, defendants will produce these documents forthwith.

Issue 2: Whether defendants have produced all documents attached to or uploaded with applications for loader positions, including resumes, cover letters and forklift training certificates, which are responsive to the EEOC's Requests for Production of Documents Nos. 1 and 21.

Defendants stated at the hearing that they have identified certain documents that were attached to applications that they did not know about previously. Defendants shall produce these documents by **December 21, 2018**.

Issue 3: Whether defendants have satisfied their obligations under Fed. R. Civ. P. 34(b)(2) by stating they “shall produce” responsive documents in response to the EEOC’s Requests for Production of Documents.

Going forward, any party who supplements a document request shall identify the specific Request for Production the supplementation relates to.

Issue 4: Whether defendants are restricted from communicating with class members and potential class members in light of Judge Dlott’s comments made on the record at the July 2, 2018 discovery conference.

The parties will discuss this issue further among themselves and attempt to reach a resolution that is consistent with Judge Dlott’s guidance provided at the July 2, 2018 discovery conference.

Issues 5 and 6: Whether defendants have fully responded to the EEOC’s Request for Production of Documents No. 20 and Interrogatory No. 10 related to the EEO-1 Report and the demographic breakdown of defendants’ workforce, including demographic information for jobs other than dockworker/loader.

The parties disagree on the relevance of demographic information for jobs other than the dockworker/loader position as requested by the EEOC, and the relevance of such information is not clear at this point. The EEOC shall therefore provide the basis for its assertion that this information is relevant to defendants for their review within **10 business days** of the date of the conference. Defendants shall submit a response to the EEOC setting forth their position on the relevance of the additional demographic information within **10 business days** after their receipt of this information from the EEOC.

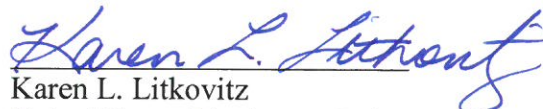
Defendants shall produce the remaining three years of EEO-1 reports that have not yet produced to the EEOC by **December 21, 2018**.

Issue 7: Whether the EEOC has fully responded to defendants' Interrogatory No. 13 and additional interrogatories and document requests that seek information on which the EEOC bases its claims in this case, or whether the EEOC has improperly asserted the "deliberative process privilege" as to certain documents.

Defendants allege that plaintiff has improperly asserted the "deliberative process privilege" as to 12 documents listed on its privilege log. Defendants shall, by **December 21, 2018**, identify for the EEOC the 12 documents that they assert have been improperly identified as protected by the deliberative process privilege; cite the portions of the privilege log that list the 12 documents; identify the specific interrogatories and document requests that relate to these documents; and submit copies of such interrogatories and document requests. The EEOC shall submit the 12 documents to the Court for its *in camera* review by **January 9, 2019**. The EEOC shall designate which portions of the documents it believes contain factual information and which parts of the documents show the EEOC's analysis. The Court will take this issue under submission after it has received this information and the documents from the parties.

IT IS SO ORDERED.

Date: 12/11/18


Karen L. Litkovitz
United States Magistrate Judge